

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Susan Bertolli,

NO. C 12-00648 JW

Plaintiff,

SCHEDULING ORDER

v.

Life Ins. Co. of North America, et al.,

Defendants.

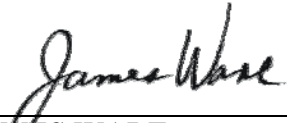
This case is scheduled for a Case Management Conference on June 11, 2012. Pursuant to the Federal Rules of Civil Procedure and the Civil Local Rules, the parties submitted a Joint Case Management Statement. (See Docket Item No. 16.) Based on the parties' submission, it appears that a schedule for the case can be set without the necessity of an appearance at this time. Accordingly, the Case Management Conference is VACATED.

In their Statement, the parties contend that the Court should schedule a "half-day bench trial on the administrative record" in this ERISA matter, and that the trial should be set for February 5, 2013. (See Docket Item No. 16 at 5.) However, the Court finds that it would be premature to schedule a bench trial at this time. In ERISA cases, it is standard practice for parties to bring cross-motions for judgment under Fed. R. Civ. P. 52. See, e.g., Lee v. Kaiser Found. Health Plan Long Term Disability Plan, No. C 09-02176 JW, 2012 WL 664733, at *2 (N.D. Cal. Feb. 28, 2012).¹

¹ In this circumstance, courts conduct "a *de novo* review of an administrator's denial of long-term disability benefits," which is to say that courts "effectively conduct[] a bench trial upon the record." Id. (citation omitted).

1 Accordingly, the Court finds that, at this time, it is appropriate to set a schedule for such cross-
2 motions for judgment. The Court sets **December 10, 2012 at 9 a.m.** as a hearing date for the
3 parties' anticipated cross-motions for judgment, which shall be briefed pursuant to the Civil Local
4 Rules.

5
6 Dated: June 5, 2012



JAMES WARE
United States District Chief Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Adrienne Clare Publicover Adrienne.Publicover@WilsonElser.com

Emily A. Bolt ebolt@boltkeenley.com

3 James Pieper Keenley jim@boltkeenley.com

Shivani Nanda shivani.nanda@wilsonelser.com

4
5 **Dated: June 5, 2012**

Richard W. Wieking, Clerk

6
7 **By: /s/ JW Chambers**

William Noble

Courtroom Deputy

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

United States District Court

For the Northern District of California